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No. _____

In the

Supreme Court of the United States

October Term, 1998

In re: Edward B. Atkinson II, Petitioner

v.

Dist. ct. #CR-98-2076-RHW
United States District Court for the
Eastern District of Washington
Respondent

UNITED STATES OF AMERICA
Real Party in Interest

PETITION IN THE ALTERNATIVE FOR WRIT OF PROHIBITION

TO: WILLIAM HUBBS REHNQUIST
CHIEF JUSTICE OF THE
UNITED STATES SUPREME COURT

Edward B. Atkinson, II
Petitioner - Pro Per
Yakima County Judicial District
2701 South 42nd Avenue RR #7
Yakima, Washington
(No Bar Codes, No Zip Codes, No Alpha Numerical Identifiers)
Phone No. (509) 452-6895

89 pp

Questions Presented

1. Whether Article III, section 1 of the Constitution for the United States of America vest the judicial Power of the United States in the United States Supreme Court, and inferior courts established and ordained under Article III.

2. Whether a natural born Citizen, of one of the several States can be forced by law to accept the status of an Artificial person.

3. Whether the process of summons issued in this case under Article I jurisdiction of the United States Magistrate/Judge is proper judicial process under the judicial Power of the United States pursuant to the Due Process clause of Article Five in Amendment to the Constitution for the United States of America.

4. Whether the Articles of the Constitution and its Bill of Rights protect a natrual born Citizen under the principals of the common-law in Federal Constitutional Courts and is the common-law under Christian doctrine. Specificlly the First Article in Amendment to the Constitution for the United States of America.

Parties to the Proceedings

The petitioner is Edward B. Atkinson, II, *Pro Per, Sui Juis*.

The respondents are:

Janet Reno
Attorney General

Walter E. Dellinger
Solicitor General
(202) 514-2000

James P. Connelly
United States Attorney
Eastern District of Washington

Donald E. Kresse, Jr.
Assistant United States Attorney

United States District Court for the Eastern District of Washington, Dist. Ct. # CR-98-2076-RHW

Robert H. Whaley
United States District Court Judge for the Eastern District of Washington

With the United States of America being the real party in interest.

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UNITED STATES OF AMERICA.
Real Party in Interest.

PETITION IN THE ALTERNATIVE FOR WRIT OF PROHIBITION

TO: WILLIAM HUBBS REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES SUPREME COURT

Petitioner, in the interest of justice, petitions for an Alternative Writ of Prohibition to issue against the United States District Court, Eastern District of Washington, and prohibiting the United States District Court Judge, Robert H. Whaley from proceeding for want of jurisdiction in case No. CR-98-2076-RHM.

FINAL ORDER BELOW

The Order of the *United States Court of Appeals for the Ninth Circuit No. 98-70721* denying Petitioner Emergency Petition for a Writ of Prohibition on June 29, 1998. (App. 1A)

JURISDICTION

The jurisdiction of this Court is invoked under Article III, sections 1 and 2 of the Constitution for the United States of America. The Judiciary Act of June 25, 1948, 62 Stat. 80th CONG., 2d SESS. CH 646., section 1651 (a)(b). Williams Hubbs Renhquist, Chief Justice of the United States Supreme Court has jurisdiction to hear and issue this Writ as he does not hold his office pursuant to the Fourteenth, Fifteenth or Nineteenth Amendments to the Constitution for the United States of America, and for the authorities stated is not within a status that could be bias against the Petitioner or issues presented.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Article in Amendment to the Constitution for the United States of America: "....or prohibiting the free exercise thereof...."

The Fifth Article in Amendment to the Constitution for the United States of America: "....unless on a presentment or indictment of a Grand Jury" ..... "nor be deprived of life, liberty, or property, without due process of law ..."

The Sixth Article in Amendment to the Constitution for the United States of America: "....district wherein the crime shall have been committed, which district shall have been previously ascertained by law...."

Article I, Section 8 to the Constitution for the United States of America: "....To constitute Tribunals inferior to the supreme Court...."

Article III, Sections 1 and 2 to the Constitution for the United States of America: "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish...." And "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States .... to Controversies to which the United States shall be a Party...."

The Fourteenth Amendment of the United States Constitution: "nor shall any State deprive any person of life, liberty, or property, without due process of law."

The Fifteenth Amendment of the United States Constitution: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

The Nineteenth Amendment of the United States Constitution: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

The provisions of 14 C.F.R., Part 61.3 are reproduced at APP.54-A.

The provisions of 28 U.S.C. § 128 are reproduced at APP. 55-A.

The provisions of 49 U.S.C. § 46306 (b)(7) are reproduced at APP. 56-A.

The provisions of the Judiciary Act of June 25 1948, 62 Stat., 80th CONG., 2d SESS., CH 646, section 1651 (a)(b) are reproduced at APP. 57-A.

The provisions of the Social Security Act of 1935, (49 STAT. 620, 647) are reproduced at APP. 58-A.

The provisions of the Supreme Court Rule 13.1 are reproduced at APP. 59-A.

STATEMENT

On or about June 9, 1998, an alleged Indictment, a true Bill was issued by the Grand jury Alleging three counts of violating 49 U.S.C. sec. 46306 (b)(7) & 14 C.F.R., Part 61.3 against Edward B. Atkinson II, here after known as the Petitioner. (App. 2A-4A)

On or about June 10, 1998, a Summons was issued to Edward B. Atkinson II to appear before the United States District Court at United States Courthouse room 102, 25 S. Third St. Yakima WA 98901 Before the Honorable Lonny R. Suko, a United States Magistrate. (App. 5A-6A)

On or about 22nd day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, Edward B. Atkinson II, Petitioner, returned the alleged summons dated June 10, 1998 to the office of United States Marshal att: Steve Thompson, with attachments Titled:

1. AFFIDAVIT OF FACTS OPPOSING VENUE. (App. 7A-15A)

2. NOTICE OF VENUE. (APP. 16A-18A)

On or about the 26th day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-

Eight, Petitioner attempted to file an Emergency Writ of Prohibition on the Honorable William F. Neilsen, Chief Judge of the United States District Court, Eastern District of Washington. Filing was refused by the Clerk of the United States District Court, Eastern District of Washington.

On or about the 26th day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, Petitioner, sent to the United States Circuit Court of Appeals, Ninth Circuit, Petitioner's Emergency Writ of Prohibition. (App.19A-28A)

On or about the 30th day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, Petitioner, by Notice of Special Appearance, attended the hearing before the Honorable Lonny R.Suko, United States Magistrate, whereby Petitioner was surprised by the Magistrate giving Petitioner a copy of a fax from the United States Circuit Court of Appeals, Ninth Circuit, denying Petitioner's Emergency Writ of Prohibition. (App. 1A)

Petitioner faced with the lost of liberty and no opportunity to file any process to estop the United States Magistrate from proceeding refused to answer to a plea or answer to a court appointed Counsel. The United States Magistrate

plead the Petitioner Not Guilty and Appointed Counsel for the Petitioner, against Petitioner's objections. Petitioner under Notice of Special Appearance signed form A.O. 199C (App. 29A-32A)

On or about the 30th day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, the Honorable Lonny R. Suko, United States Magistrate, issued his order of SETTING CONDITIONS OF RELEASE, based on Petitioner's signature on form A.O.199C.

On or about the 30th day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, the Honorable Lonny R. Suko, United States Magistrate, caused to be issued, Amended Order of SETTING CONDITIONS OF RELEASE, without the consent or Petitioner's signature.

On or about the 13th day of July in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, Petitioner, filed with the clerk of the United States District Court Eastern District of Washington his Affidavit of Edward B. Atkinson II DENYING ENTRY OF PLEA and APPOINTMENT of COUNSEL. (App. 33A-36A)

On or about the 14th day of July in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, the District Court Executive, James R. Larsen, Clerk through Deputy Clerk Michelle M. Fox, caused to be issued, NOTICE SETTING PRETRIAL HEARINGS AND TRIAL DATES. (APP. 37A-38A)

On or about the 30th day of July in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, the Honorable Robert H. Whaley, United States District judge, caused to be issued ADVISORY TO PRO SE DEFENDANT. (App. 39A-44A)

Petitioner, has caused Petitioner's PETITION IN THE ALTERNATIVE FOR WRIT OF PROHIBITION to Williams Hubbs Rehnquist, Chief Justice of the United States Supreme Court, is filed within the 90 day limitation of Supreme Court Rule 13.1.

REASON FOR GRANTING THE PETITION

This is a case of first impression. The case presents a controversy of the authority of Congress to alter the judicial Power of the United States pursuant to Article III, section 1 of the United States Constitution for the United States of America, and Articles One, Five and Six, in Amendment

to the United States Constitution. This case further involves Article III and Articles One, Five and Six in Amendment of the United States Constitution as previewed through the Due Process Clause of the Fourteenth Amendment. There is a great need for a clarity on the powers established between the judicial Power of the United States and the limited judicial power under the due process clause of the Fourteenth Amendment as alleged by Acts of Congress. For the peace and safety of the People that they may not err on the standing of the people under these powers will greatly reduce the countless frivolous actions filed by litigants in the Federal Court System. The People are greatly confused as to the status of the judicial Power of the United States as vested in the United States Supreme Court and the inferior federal courts under Article III, section 1 of the Constitution for the United States of America. The people are greatly confused to the limited judicial power vested in certain courts by the Congress of the United States. In the interest of Petitioner, and the People of the United States of America, Petitioner presents this Writ of Prohibition to establish the authority or non-authority of Congress and the intent of certain Articles and Amendments for adjudication.

1. Under the Original Intent of Article III, section 1 of the United States Constitution, the United States Supreme Court is vested the judicial Power of the United States. As the People's Constitution vest the United States Supreme Court with the judicial Power of the United States , this full judicial Power can not be reduced or abolished by any Act of the United States Congress. Under the Original Intent of the People's Constitution, the United States Supreme Court must accept jurisdiction in a proper case or Controversy to which the United States shall be a party pursuant to Article III, section 2 of the Constitution for the United States of America. As stated in *Marbury v. Madison* and restated in *Cohens v. Virginia* 19 U.S. (6 Wheat) 264, 404 (1821).

> "It is most true that this court will not take jurisdiction if it should not; but it is equally true, that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution." *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, (1821)

Congress has the unquestionable authority to constitute Tribunals inferior to the Supreme Court under Article I,

section 8 of the Constitution for the United States of America. Congress has the unquestionable authority to vest these Tribunals with Legislative or limited judicial power, but no authority to vest these Tribunals with the judicial Power of the United States under Article III of the Constitution. Congress has the authority to abolish inferior courts, change the name of inferior courts under Article III, section 2. But Congress does not have the Constitutional authority to remove the judicial Power of the United States from the United States Supreme Court or an inferior court **ordain and established** under Article III, section 1 of the Constitution for the United States of America.

> "We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted." *Mattox v. U.S.*, 156 US 237, 243.
>
> "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish..." Article III, section 1, Constitution for the United States of America
>
> ORDAIN. "To ordain is to make an ordinance, to enact a law". Bouvier Law Dictionary 8th Ed., Vol. 2, (1859), p. 268, title: Ordain.

The term "establish", as used in the Preamble, means to fix perpetually:

> "ESTAB'LISH...
> 1. To set and fix firmly or **unalterably**; to settle

permanently.

I will establish my covenant with him for an everlasting covenant, Gen. XVII

2. To found permanently; to erect and fix or settle; as, to establish a colony or empire.

3. To enact or decree by Authority and for permanence...

4. To settle or fix; to confirm...

5. To make firm; to confirm; to ratify what has been previously set or made.

Do we then make void the law through faith? God forbid: yea, we establish the law. ROM III" An American Dictionary of the English Language, Noah Webster (1828). [Emphasis mine]

"ESTABLISH. This word occurs frequently in the Constitution of the United States, and it is there used in different meanings: (1) to settle firmly, to fix unalterably; as to establish justice, which is the avowed object of the Constitution.

To settle or fix firmly; place on a permanent footing; found; create; put beyond doubt or dispute; prove; convince..." Black's Law Dictionary, 5th Ed., p. 642, title: Establish.

It is clear the United States Supreme Court and all inferior courts established under the authority of Article III, section 1 are vested with the judicial Power of the United States. Congress cannot abolish the United States District Court and the United States Circuit Court and re-establish them vesting only a limited judicial power and claim this is Constitutionally authorized by Article III, section 1 of the Constitution for the United States of America. But Congress has claimed they are authorized they can do what the United States Supreme Court under Original Intent of the Constitu-

tion says they cannot. *Gordon v. United States*, 117 U.S. 697, (1885).

> "...And Congress cannot extend the appellate power of this Court beyond the limits prescribed by the Constitution, ... or any other tribunal exercising only special powers under an act of Congress;...
>
> "The powers conferred by these acts of Congress upon the judge, as well as the Secretary, are, it is true, judicial in their nature. For judgment and discretion must be exercised by both of them. But it is nothing more than the power ordinarily given by law to a commissioner...A power of this description...But it is not judicial in either case, in the sense in which judicial power is granted by the Constitution to the Courts of the United states...And it is very clear that this Court has no appellate power over these special tribunals, and cannot, under the Constitution, take jurisdiction of any decision, upon appeal, unless it was made by an inferior court, exercising independently the judicial power granted to the United States. It is only from such judicial decisions that appellate power is given to the Supreme court". *Gordon v. United States*, 117 U.S. 697, (1885)

The United States Supreme Court has created a controversy on the authority of Congress to remove the full judicial Power from inferior courts under Article III and vest these inferior courts with a limited judicial power. ***Palmore v. United States***, 411 U.S. 389, p.401, (1973).

> "...The decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create

> inferior Art. III courts to hear and decide cases within the judicial power of the United States, including those criminal cases arising under the laws of the United States. Nor, if inferior federal courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Art. III. "[T]he judicial power of the United states..." *Palmore v. United States*, 411 U.S. 389, p.401, (1973)

Clearly the *Palmore decision* falls under the Due Process clause of the Fourteenth Amendment. Palmore being a federal citizen authorized by the Fourteenth Amendment. Petitioner contends a new judicial system complete with a new limited judicial power was created by Congress under the due process of the Fourteenth Amendment. For these two interpretations of the judicial power to be Constitutional there has to be a designator that separates the *Gordon decision* and the *Palmore decision*. Petitioner contends it is the standing of the litigants before the law is that designator.

2. Petitioner is a White Natural born Citizen of the State of California and thereby known as a citizen of the United States, now domiciled in the Provisional state of Washington. Petitioner is not a member of any citizen militia or any group who represents the overthrow of the government of the United States of America. Petitioner has served his Nation as a United States Marine for 18 years from 1958 to

1977 with two tours in Viet-Nam, and Honorably discharged on March 28, 1977. Petitioner has no fictious entity created by law, such as an Artificial Person/Individual and is of the sole status of Flesh and Blood before the Court. *American Law and Procedures*, Vol. 13, pp. 137-162, (1910).

> "This word 'person' and its scope and bearing in the law, involving, as it does, legal fictions and also apparently natural beings, it is difficult to understand; but it is absolutely necessary to grasp, at whatever cost, a true and proper understanding of the word in all the phases of its proper use...The words persona and persona did not have the meaning in the Roman which attaches to homo, the individual, or a man in the English; it had peculiar reference to artificial beings, and the condition or status of individuals ...A person is here not a physical or individual person, but the status or condition with which he is invested...not an individual or physical person, but the status, condition or character borne by physical condition.
>
> A MOMENTS REFLECTION ENABLES ONE TO SEE THAT MAN AND PERSON CANNOT BE SYNONYMOUS, FOR THERE CANNOT BE AN ARTIFICIAL MAN, THOUGH THERE ARE ARTIFICIAL PERSONS. Thus the conclusion is easily reached that the law itself often creates an entity or a being which is called a person; the law cannot create an artificial man, but it can and frequently does invest him with artificial attributes; This is his personality...that is to say, the man-person; and abstract persons, which are fictitious and which have no existence except in law; that is to say, those which are purely legal conceptions or creations." *American Law & Procedures*, Vol.13, pp. 137-162, (1910)

Petitioner is not an Individual (artificial entity) pursuant to the Social Security Act, (49 STAT. 620) (App. 58A). Petitioner's status as a Citizen does not emanate from the Fourteenth Amendment of the Constitution of the United States. *Van Valkenburg v. Brown*, 43 Cal. 431 47, (1872).

> "It is claimed that the plaintiff is a citizen of the United States and of this State. Undoubtedly she is. It is argued that she became such by force of the first section of the Fourteenth Amendment, already recited. This, however, is a mistake. It could well be claimed that she became free by the effects of the Thirteenth Amendment, by which slavery was abolished, for she was no less a citizen than she was free before the adoption of either of these amendments. No white person...owes the status of citi- zenship to the recent amendments to the Federal Constitution. The history and aim of the Fourteenth Amendment is well understood. That purpose was to confer the status of citizenship upon a numerous class of persons domiciled within the limits of the United States, who could not be brought within the operation of the naturalization laws because native born, and whose birth, though native, had at the same time left them without the status of citizenship. These persons were not white persons, but were, in the main, persons of African descent, who had been held in slavery in this country, or, if having themselves never been held in slavery, were the native-born descendants of slaves." *Van Valkenburg v. Brown*, 43 Cal. 431 47, (1872)

Petitioner is not challenging the authority of the Fourteenth Amendment, as petitioner status of Citizenry shows he is not a federal citizen under the Fourteenth Amendment

nor does Petitioner have an artificial entity created by law. Petitioner establishes these facts to show this Court that he is not an entity [person/individual] chargeable under 49 U.S.C., therefore not an entity chargeable under the criminal sections of 46306 (b)(7) & 14 C.F.R., Part 61.3 and therefore the United States District Court for the Eastern District of Washington is in want of personal jurisdiction of the Petitioner. *Russell v. United States*, 369 U.S. 749, 770-771, (1962).

> "This underlying principle is reflected by the settled rule in the federal courts that an indictment may not be amended except by (resubmission to the grand jury), unless the change is merely a matter of form. (Citations omitted.) "If it lies within the province of a court to change part of an indictment to suit its own notions of what it ought to have been, or what the grand jury would probably have made it if their attention had been called to suggested changes, the great importance which the common law attaches to an indictment by a grand jury, as a prerequisite to a prisoner's trial for a crime, and without which the Constitution says "no person shall be held to answer," may be frittered away until its value is almost destroyed. ...Any other doctrine would place the rights of the citizen, which were intended to be protected by the constitutional provision, at the mercy or control of the court or prosecuting attorney; for, if it be once held that changes can be made by the consent or the order of the court in the body of the indictment as presented by the grand jury, and the prisoner can be called upon to answer the indictment as thus changed, the restriction which the Constitution places upon the power of the court, in regard to the prerequi-

> site of an indictment, in reality no longer exists." (Citation omitted.) We reaffirmed this rule only recently, pointing out that "The very purpose of the requirement that a man be indicted by grand jury is to limit his jeopardy to offenses charged by a group of his fellow citizens acting independently of either prosecuting attorney or judge." (Citation omitted) *Russell v. United States*, 369 U.S. 749, 770-771, (1962)

The procedures in a inferior court of limited judicial power may well have the authority to dismiss the principals of the common-law, but a court established under Article III possessing the judicial Power of the United States must temper its decisions based on the principles of the common-law and cannot accept an indictment that is not properly presented before a Grand Jury that does not have all of the elements required under Article Five in Amendment to the Constitution for the United States of America. (App. 2A-4A)

3. Petitioner was served a summons directing him to appear before the Honorable Lonny R. Suko, United States Magistrate, an Article I, non-judicial officer. The summons directs Petitioner to appear at UNITED STATES COURT-HOUSE, ROOM 102, 25 S. Third St. Yakima, Wa 98901. Petitioner contends that the summons is void, pursuant to the designation of "Wa" represents the Ninth Federal Re-

gional Area within a military venue and the zip code "98901" represents a National Area, also within a Military Venue. Petitioner contends under these venues, that the venue of the United States District Court for the Eastern District of Washington at 28 U.S.C., section 128 is a Military venue. That the Judicial District under 28 U.S.C., section 128 is not a district wherein the crime shall have been committed, a United States Judicial District in the Constitutional sense within the Sixth Article in Amendment to the Constitution for the United State of America, whereby a Federal Constitutional Court possessing the judicial Power of the United States may exercise this jurisdiction pursuant to Article III, sections 1 and 2 of the Constitution for the United States of America. Regional Areas and National Areas have been and now are considered to be a structure of venues within a Military power *Ex parte Milligan*, 71 U.S. 2, (1866), see also; *Sharpleigh et al. v. Surdam et al.*, 21 Fed. Cas. 12,711. See also *Keely v. Sanders*, 99 U.S. 441, 448; 25 L.Ed. 327.

> There are under the Constitution three kinds of military jurisdiction: one to be exercised both in peace and war, another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within

states or districts occupied by rebels treated [p*142] as belligerents, and a third to be exercised in time of invasion or insurrection within the limits of the United States or during rebellion within the limits of states maintaining adhesion to the National Government, when the public danger requires its exercise. The first of these may be called jurisdiction under MILITARY LAW, and is found in acts of Congress prescribing rules and articles of war or otherwise providing for the government of the national forces; the second may be distinguished as MILITARY GOVERNMENT, superseding, as far as may be deemed expedient, the local law and exercised by the military commander under the direction of the President, with the express or implied sanction of Congress, while the third may be denominated MARTIAL LAW PROPER, and is called into action by Congress, or temporarily, when the action of Congress cannot be invited, and, in the case of justifying or excusing peril, by the President in times of insurrection or invasion or of civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights. *Ex parte Milligan*, 71 U.S. 2, (1866)

"We can conceive of cases where such a rule would work unjust results. The word "district" is used in this section not necessarily to designate any civil division in the state occupied, but as synonymous with "region",... The same word is used in describing the whole territory into which the commanding general enters, and the subjection of parts of which will authorize the tax. Within the nomenclature of the law there is necessarily an insurrectionary district, the whole of which need not be occupied in order to justify the tax. The statute so provides in express terms. We know of no civil divisions in the insurrectionary states where there was districts within districts. But this law declares that where the commanding general enters into any state or district, and within it establishes the authority throughout any parish or county, the tax may be collected. Within this law the

> occupation of the entire city of Memphis, having a distinct municipal organization, is a taxing district. It is not a parish or a county;..." *Sharpleigh et al. v. Surdam et al.*, 21 Fed. Cas. 12,711.

Petitioner, further shows this court that the charging agency United States Department of Transportation, Federal Aviation Administration, hereafter known as FAA is an agency administrating the laws of 49 U.S.C. from the Office of Regional Counsel, Northwest Mountain Region, Colorado, Idaho, Montana, Oregon, Utah, Washington Wyoming, 1601 Lind Avenue SW, Renton, Wa 98055-4099. Petitioner contends the FAA is administering the laws enacted in 49 U.S.C. on Petitioner from a United States Military Venue enforcing a Martial law Jurisdiction. Petitioner is within the Civil jurisdiction of the Provisional state of Washington. Congress does not have the authority to enact legislation re-structuring the Union into Military venues on a perpetual bases under the Military power of the United States over the civilians [Martial Rule]. *Griffin v. Wilcox*, 21 Indiana 370, Kerr Reporter, Supreme Court of Indiana, p. 376, (Nov. Term 1863).

> "When the citizen is governed by the military power, he is not governed by the soldier's code of military law, but he is said to be governed by martial law; and this law is perfectly distinct and entirely different from military law, to which soldiers are

subject." *Griffin v. Wilcox*, 21 Indiana 370, Kerr Reporter, Supreme Court of Indiana, p. 376, (Nov. Term 1863).

4. Petitioner is a child of our Creator, and as such cannot accept an artificial entity as his Unalienable Rights granted by our Creator are only recognized by our Creator as living flesh and blood. For Petitioner to accept an artificial entity to comply with Congress' legislation would be for the Petitioner to surrender the Unalienable Rights granted by our Creator and accept a statutory privilege outside of the protections of the Bill of Rights which prevent Congress from encroachment on the Unalienable Rights granted by our Creator. The United States District Court can only recognize Petitioner as a *Pro Se* and will only allow Petitioner to enter the jurisdiction of the Court as a *Pro Se*. (APP. 39A-43A). Petitioner relies on the protection of his unalienable rights to the free exercise thereof of his faith, Specifically the First Article in Amendment to the Constitution for the United States of America. *Strauss v. Strauss*, 3 So 2d 727, 728, (1941).

> "Every system of law known to civilized society generated from or had as its component one of three well known systems of ethics, Pagan, stoic, or Christian. The common law draws its subsistence from the latter, its roots go deep into that system, the Christian concept of right and wrong

or right and justice motivates every rule of equity. It is the guide by which we dissolve domestic frictions and the rule by which all legal controversies are settled." *Strauss v. Strauss*, 3 So 2d 727, 728, (1941)

CONCLUSION

Petitioner has no remedy in the United States District Court, nor in the United States Court of Appeals. Petitioner only can seek a remedy in a court possessing the judicial Power of the United States. The petition for a PETITION IN THE ALTERNATIVE FOR WRIT OF PROHIBITION should be granted.

Respectfully submitted.

Edward B. Atkinson, II

(seal, Right Thumb Print)

Edward B. Atkinson, II
Petitioner - Pro Per

August 15th in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight.

APPENDIX A

[Filed: Jun 29 1998]

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

EDWARD B. ATKINSON, II,	No. 98-70721
Petitioner,	DC# CR-98-2076-RHW Eastern Washington (Spokane)
vs.	
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON,	
Respondent,	ORDER
UNITED STATES OF AMERICA	
Real Party in Interest	

Before: REINHARDT, THOMPSON, and LEAVY, Circuit Judges

Petitioner's emergency motion for a writ of prohibition is denied.

No motions for reconsideration, modification, or clarification of this order shall be filed or entertained.

APPENDIX B

[Filed: June 9, 1998]

JAMES P. CONNELLY
United States Attorney
Eastern District of Washington
DONALD E. KRESSE, JR.
Assistant United States Attorney
402 E. Yakima Avenue, Suite 210
Yakima, Washington 98901
(509) 454-4425

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	
	INDICTMENT
Plaintiff,	CR-98-2076-RHW
	Vio: Cts. 1-3 - 49 U.S.C. § 46306 (b)(7) & 14 C.F.R., Part 61.3 (Serving as Airman Without Proper
v.	
EDWARD B. ATKINSON, II,	Certificate)
Defendant.	

The Grand Jury charges:

COUNT 1

That on or about November 24, 1997, at Yakima, and elsewhere, within the Eastern District of Washington, EDWARD B. ATKINSON, II did knowingly and willfully serve or attempt to serve in the capacity of an airman to wit, by acting as pilot in command of Cessna 172M aircraft

N50187, without an airman's certificate authorizing said individual to serve in that capacity; all in violation of Title 49, United States Code, Section 46306(b)(7) and Title 14, Code of Federal Regulations, Part 61.3.

COUNT 2

That on or about November 25, 1997, at Yakima, and elsewhere, within the Eastern District of Washington, EDWARD B. ATKINSON, II did knowingly and willfully serve or attempt to serve in the capacity of an airman to wit, by acting as pilot in command of Cessna 172M aircraft N50187, without an airman's certificate authorizing said individual to serve in that capacity; all in violation of Title 49, United States Code, Section 46306(b)(7) and Title 14, Code of Federal Regulations, Part 61.3.

COUNT 3

That on or about February 23, 1998, at Yakima, and elsewhere, within the Eastern District of Washington, EDWARD B. ATKINSON, II did knowingly and willfully serve or attempt to serve in the capacity of an airman to wit, by acting as pilot in command of Cessna 172M aircraft N50187, without an airman's certificate authorizing said

individual to serve in that capacity; all in violation of Title 49, United States Code, Section 46306(b)(7) and Title 14, Code of Federal Regulations, Part 61.3.

DATED June 9, 1998.

A TRUE BILL

/s/ Diane s. Mc Lean
Foreman

JAMES P. CONNELLY
United States Attorney
/s/
DONALD E. KRESSE, JR.
Assistant United States Attorney

APPENDIX C

[Filed: June 11, 1998]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff(s),	)	Case Number: CR-98-2076-RHW
	)	
vs.	)	
	)	SUMMONS IN A
EDWARD B. ATKINSON, II,	)	CRIMINAL CASE
	)	
Defendant(s).	)	

EDWARD B. ATKINSON, II
2701 So. 42nd Ave.
Yakima, WA 98903-9548

YOU ARE HEREBY SUMMONED to appear before

the United States District Court at

UNITED STATES COURTHOUSE
ROOM 102
25 S. Third St.
Yakima, WA 98901

BEFORE THE HONORABLE LONNY R. SUKO

ON TUSEDAY, JUNE 30, 1998 AT 9:00 A.M.

To answer a(n) Indictment charging you with violation of:

49 USC 46306(b)(7) & 14 CFR, Part 61.3 Serving as Airman Without Proper Certificate

JAMES R. LARSEN CLERK,

U.S. DISTRICT COURT by: _____

June 10, 1998 Deputy Clerk

APPENDIX D

Edward B. Atkinson, II
Yakima County Judicial District
2701 S. 42nd Ave., RR #7
Yakima, Washington State

AFFIDAVIT OF FACTS OPPOSING VENUE

STATE OF WASHINGTON)
Affirmed:
COUNTY OF YAKIMA)

I I, Edward B. Atkinson, II, In propia persona, Sui Juris, an absolute free white male American and State Citizen in the original sense and at peace with City, County, State and Federal governments, do hereby state and affirm the following facts

1. My full name is Edward Benjamin Atkinson, II; and,

2. I was natural born on the 19th day of January, A.D., 1941, in the Republic of California, a State within the union of States of America; and,

3. I am a free white male Citizen in the County of Yakima, in the State of Washington as evidenced by the "Public Notice - Positive Identification of Edward B. Atkinson, II" which is a matter of public record in the Yakima County Recorders Office located at County Courthouse Room 117, 128 N. 2nd Street, Yakima, Washington State, telephone number (509) 575-4048, recorded as number 2995837 by

this reference incorporated and set out in full herein a true and correct certified copy as **EXHIBIT A**; and,

4. I have made permanent place of abode in the State of Washington, County of Yakima since 1974 and therefore as a Citizen and but NOT a **resident** or having **"residence"** therein; and,

5. I am not a Federal citizen by virtue of the Fourteenth Amendment; and,

6. I specifically declare that my place of abode is: Yakima County Judicial District, 2701 S. 42nd Ave RR #7, Yakima, Washington State, under the "civil" venue and jurisdiction of the State of Washington; and,

7. I never knowingly applied for or became a corporation, an officer or employee of a corporation nor knowingly ever applied for or acquired an artificial alter ego (character) from any State, from the United States, or from the District of Columbia, its territories or insular possessions or any agency created or regulated by the statutes thereof; and,

8. I never knowingly or willfully applied for or received any privilege from any agency of any state, the United States, or the District of Columbia, its territories or insular possessions or any agency created or regulated by the stat-

utes thereof; and,

9. I am not a member of the armed forces; and,

10. I have no Social Security account or taxpayer\employee account numbers. FAA medical certificate (form "1990"). FAA commercial pilot certificate number 2209613, driver's license, or any other nexus with City, County, State, or Federal governments or their affiliates never having applied for or received same with my **full knowledge or consent**; and,

11. I am not now, nor have I ever, knowingly entered into any personal internal or private agreement, contract, stipulation, account or similar contrivance with any State, the United States, the District of Columbia, their territories, agencies, assigns or affiliates, or other property appertaining thereto; and,

12. I am not now nor have I ever knowingly been actually or constructively a resident, citizen, subject or inhabitant of the District of Columbia, its subordinate territories, or property appertaining thereto in either a legal or factual sense; and,

13. I have deduced from the foregoing that I am not actually or constructively a resident, citizen, subject, or inhabitant

of the District of Columbia or its affiliates, and that I am not an internal "person" or "individual," either of the State of Washington or of the Federal government, as defined in the Various State and Federal Revised Statutes; and,

14. I specifically declared that my place of abode and mailing address is:

Edward B. Atkinson, II
Yakima County Judicial District
2701 S. 42nd Ave., RR #7
Yakima, Washington State

15. I have no Aircraft registration on a so-called "N50187" Cessna 172m, serial No. 17264195, since the NOTICE BY AFFIRMATION RECISSION, REVOCATION, REPUDIATION, ANNULMENT, AND ABROGATION OF AIRCRAFT REGISTRATION BY REASON OF CONSTRUCTIVE FRAUD PERPETRATED BY CONGRESS, which is a matter of public record in the Yakima County Recorders Office, located at County Courthouse Room 117, 128 N. 2nd Street, Yakima, Washington State, telephone number (509) 575-4048 recorded number 28511912, Volume 1259 pages 743 through 750, and AFFIRMATION OF SERVICE, Served upon the Federal Aviation Adminis-

tration, Airman & Aircraft Registry, Oklahoma City, Oklahoma, 73125, February 3rd, in the year of our Lord and Savior Jesus the Christ, Nineteen Hundred and Eighty Nine, in Volume 1259 pages 748 and 749, by this reference, incorporated and set out in full herein; and,

16. That on June 16th in the year of our Lord and Savior Jesus the Christ, I was served by the United States Marshal office a "Summons In A Criminal Case No. CR-98-2076-RHW" in the "United States District Court Eastern District of Washington." See **EXHIBIT B** attached hereto; and,

17. No legitimate service of the aforesaid statutory instruments can be made or has been made upon me; and,

18. I have not and will not respond to the accusations pretended against me in the pretended legal instrument mentioned in paragraph sixteen above, in any statutory-military-tribunal proceedings pretended thereupon; and,

19. I hereby formally withdraw any response or plea that any administrative (military) tribunal or legislative court may have entered **or may enter**, regarding the said legal instrument mentioned in paragraph sixteen above; and,

20. I specifically deny any and all power of attorney, agency or similar power to the pretended agency\plaintiff

attorneys, and any court taking cognizance in this matter; and,

21. I specifically declare void any and all acts and/or omissions of said persons in paragraph sixteen above which purport to be in my behalf; and,

22. After full consideration of the facts evidenced herein, I have determined the accusations are merely pretended against me in the instant summons, which are defective and that I am not and cannot lawfully be brought within the statutory military venue of any tribunal or court taking cognizance of said accusations without my voluntary acquiescence, therefore, as a matter of sustaining my assertion to defects in venue and jurisdiction, I will not voluntarily acquiesce to the pretended statutory process set out in **Exhibit B** attached hereto; and,

23. I never at any time, nor will I now knowingly or willingly waive or otherwise relinquish my God given (unalienable) Vested-Rights, especially, but not limited to those which are secured at law in the Constitution for the United States of America (1787-1791) and the Constitution for the State of Washington, and I specifically deny any waiver of said Rights made for me or on my behalf by any

agency of the State, the United States, the District of Columbia, its insular possessions or territories, or their affiliates or assigns whomsoever; and,

24. Therefore, I find there are two alternatives for the U. S. Marshal office to follow: to return said summons in paragraph sixteen to the originator as improper service; or,

25. For the originator of "summons" in paragraph sixteen to bring any future accusations or future actions against me in a CERTIFIED COURT OF COMMON LAW JUDICIAL VENUE AND JURISDICTION, i.e. an **ARTICLE III COURT possessing the full and complete "JUDICIAL POWER OF THE UNITED STATES"**; and,

26. This affidavit is made in good faith and is intended to establish my place of abode under the "Civil" venue established by the Organic Law of the United States of America and the State of Washington, to maintain, and to assist in retaining, the sovereignty of "WE THE PEOPLE" in the State of Washington against the encroachment of the legislative-executive military powers of the United States Congress and Commander and Chief (President) exercised by their Regional agents; and,

27. The foregoing is true and correct to the best of my

knowledge and is made in good faith that the aforementioned accusations pretended against me are jurisdictionally defective; and,

FURTHER AFFIRMANT SAITH NOT

SUBSCRIBED, AFFIRMED, and SEALED in the County of Yakima, in the State of Washington, this 19th day of June, in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight.

/s/Edward B. Atkinson II Certified Mail return

Edward B. Atkinson, II (sealed) receipt requested

Yakima County Judicial District number P-917-609-997

2701 S. 42nd Ave., RR #7

Yakima, Washington State

We, the undersigned, witness this ____ day of _____, A.D., 1998, that Edward B. Atkinson II, the one known to us to be the above signator did personally appear before us in Yakima County, in the State of Washington, and upon affirmation execute and affix the above signature and seal hereto.

1st Witness /s/Lorne J. House a Citizen in the State of Washington.
Print Name and Address Lorne J. House, 2712 S. 16th Ave, Yakima, Washington

2nd Witness /s/Anthony W. Duffy a Citizen in the State of Washington.
Print Name and Address Anthony W. Duffy, 1712 Parsons *LP.*, Yakima, Washington.

3rd Witness /s/Steven J. Droles a Citizen in the State of Washington.
Print Name and Address Steven J Droles P.O.Box 4004, Yakima, Washington

APPENDIX E

DOCUMENT TITLE: **AFFIDAVIT OF FACTS OPPOSING VENUE**

TO: Office of the United States Marshal
25 S. 3rd Street
Yakima, WA 98901

WHEN RECORDED RETURN TO:.....

Grantor..... Edward B. Atkinson, II
Yakima County Judicial District
2701 S. 42nd Ave., RR #7
Yakima, Washington State

Grantee: Office of the United States Marshal
(as stated above)

NOTICE OF VENUE

TO: The Office of United States Marshall,
Attn: Mr. Steve Thompson

RE: Improper Process of Service, "U.S.A. vs. Edward B. Atkinson, II, CR-98-2076-RHW."

I, Edward B. Atkinson, am a member of the posterity as established by the original body politic, secured by the Statute of 1776 (Declaration of Independence), as restated in the Preamble to the Constitution for the united States of America.

My place of abode is: Edward B. Atkinson

Yakima County Judicial District

2701 S. 42nd Ave RR #7

Yakima, Washington State

I am at peace with City, County, State, and Federal governments.

I am not a resident of a Federal District within a National Regional Area.

I am not a citizen, resident, or subject of the District of Columbia, i.e. United States residing in the State of Washington.

I am not a citizen as defined within the limitations of the declaratory Fourteenth Amendment.

I am not a member of a foreign body politic as established through the Social Security Act of 1935 or as amended.

I am not a member of the armed forces of the United States.

I am not a "person," "individual," "employee," "employer," "firm," "company," "association," "partnership," "corporation," a "whoever," or similar legal character within the "context" of definition in the Codes, rules, regulations, & c., of the National government.

I am not a entity subject to service of process of a Federal

Tribunal, when said court's venue is within a legislative-executive Regional District.

The United States Marshall's jurisdiction is purely territorial legislative-executive, and does not extend within the boundaries of this State, when the office cannot establish a territorial or regional venue and jurisdiction to serve process outside your office's jurisdiction, your office exceeds its authority if the process is served.

I am causing this NOTICE OF VENUE to be served in order to inform your office that I, Edward B. Atkinson, II, am not a citizen/subject/person within the regional or legislative-executive **martial law rule power** of the United States, i.e. District of Columbia.

Signed by my hand and seal, in the month of June, on the 19th day, in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety Eight.

Certified Mail No. P-917-609-997

/s/ Edward B. Atkinson II
Edward B. Atkinson, II (Sealed)
Yakima County Judicial District
2701 S. 42nd Ave., RR #7
Yakima, Washington State

APPENDIX F

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

CASE NO. _____

In re: EDWARD B. ATKINSON, II
Petitioner,

Dist. Ct. #CR-98-2076-RHW.

PETITIONER's EMERGENCY WRIT OF PROHIBITION

Oral argument requested

TO: The Chief Judge for the 9th Circuit Court of Appeals.

Comes now, Edward B. Atkinson II, Propria Persona, Sui Juris, Accused in cause No. CR-98-2076-RHW, captioned as United States of America, Plaintiff, vs. Edward B. Atkinson, II, Defendant, in the United States District Court for Eastern District of Washington, hereby petitions Honorable Chief Judge to issue this Writ of Prohibition to prohibit the Honorable Lonny R. Suko, United States Magistrate, at 9:00 A.M. on June 30, 1998 and thereafter from any and all proceedings in the foregoing action now pending before him.

JURISDICTION

"The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish..." Article III section 1 Constitution for the United States of America. and 28 U.S.C. section 1651 (a)

STATEMENT OF THE FACTS

On or about June 9, 1998, an Indictment, a true Bill was issued by the Grand jury Alleging three counts of violating 49 U.S.C. sec. 46306 (b)(7) & 14 C.F.R., Part 61.3 against Edward B. Atkinson, II, here after known as the accused. [Exhibit-A]

On or about June 10, 1998, a Summons was issued to Edward B. Atkinson, II to appear before the United States District Court at United States Courthouse room 102, 25 S. Third St. Yakima, WA. 98901, Before the Honorable Lonny R. Suko, a United States Magistrate. [Exhibit-B]

On or about 22nd day of June in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-Eight, Edward B. Atkinson, II, accused returned the alleged summons dated June 10, 1998 to the office of United States Marshal att: Steve Thompson, with attachments Titled:

1. AFFIDAVIT OF FACTS OPPOSING VENUE.

2. NOTICE OF VENUE. [Exhibit-C]

STATEMENT OF ISSUES

1. Is Petitioner's status of Citizenry such that he is one entitled to a Court in possession of the "judicial Power of the United States" of Article III.

2. Are United States Magistrates Article I Judges?

3. Can Article I Judges exercise Article III powers?

4. Is an Indictment by a Grand Jury of Article III jurisdiction?

5. Does the Federal Magistrate Act allow Article I Judges to hear and decide subject matters of Article III jurisdiction under the supervision of a United States District Court possessing "judicial power" a limited judicial power?

6. Does the limited "judicial power" of a United States District Court fall within the Appellate power of the United States Supreme Court under the judicial Power of the United States?

RELIEF SOUGHT

Petitioner, seeks relief in that Honorable Lonny R. Suko, United States Magistrate be prohibited from any and all proceeding in cause No. CR-98-2076-RHW, and that this

cause be transferred to a United States District Court possessing the "judicial Power of the United States", that Petitioner is within the protections of the limitations of the Bill of Rights, which a Court of full judicial Power of Article III with an Article III Judge presiding has the full judicial Power of the Court to enforce on the officers of the Legislative and Executive Branches any violations of the limitations of the Bill of Rights. To insure the accused, that his appeal rights will be within the Appellant power of the United States Supreme Court possessing the judicial Power of the United States of Article III of the Constitution for the United States of America..

GROUNDS FOR WRIT

Petitioner, Edward B. Atkinson, II, is a free white Citizen of the State of Washington, and a Citizen of the United States. Petitioner is not a citizen of the United States purviewed through the Fourteenth Amendment to the Constitution of the United States.

No white person...owes the status of citizenship to the recent amendments to the Federal Constitution. Van Valkenburg v. Brown, 43 Cal 431 47 (1872).

Petitioner, is in full possession of his natural rights as protected by the Constitution and its Bill of Rights of the

Constitution for the United States of America. Petitioner, has no alter-ego standing of any kind purviewed through any statute creating alter-ego's by law.

"This word 'person' and its scope and bearing in the law, involving, as it does, legal fictions and also apparently natural beings, it is difficult to understand; but it is absolutely necessary to grasp, at whatever cost, a true and proper understanding of the word in all the phases of its proper use...The words persona and persona did not have the meaning in the Roman which attaches to homo, the individual, or a man in the English; it had peculiar reference to artificial beings, and the condition or status of individuals ...A person is here not a physical or individual person, but the status or condition with which he is invested...not an individual or physical person, but the status, condition or character borne by physical condition.

A MOMENTS REFLECTION ENABLES ONE TO SEE THAT MAN AND PERSON CANNOT BE SYNONYMOUS, FOR THERE CANNOT BE AN ARTIFICIAL MAN, THOUGH THERE ARE ARTIFICIAL PERSONS. Thus the conclusion is easily reached that the law itself often creates an entity or a being which is called a person; the law cannot create an artificial man, but it can and frequently does invest him with artificial attributes; This is his personality...that is to say, the man-person; and abstract persons, which are fictitious and which have no existence except in law; that is to say, those which are purely legal conceptions or creations." American Law and Procedures, (1910) Vol.13, pp. 137-162.

Petitioner, has the status to demand he be before a Constitutional Court in possession of the judicial Power of the United States at Article III of the Constitution for the United States of America. [see exhibit-A of Exhibit-C]

"Natural persons have natural rights of which no legisla-

tive act can deprive them" Bassen v. Monckton, 274 SW 404.

'...Any legislation by Congress beyond the limits of the power delegated, would be trespassing upon the rights of the States or the people, and would not be the supreme law of the land, but null and void; and it would be the duty of the courts to declare it so..." Gordon v. United States, 117 U.S. 697 (1885)

Further we have the ruling of;

"Thus, if the Union spoken of exists by the power of the people, then also the founding law upon which that Union was predicated in the first place is unchangeable except by their authority and so also the natural de jure citizenship recognized thereby, which said status preceded the constitutions of both the Constitution for the United States of America and the several States therein imbued with that "original right" clearly determined to be the paramount authority by the court in Marbury v. Madison, 5 U.S. (1 Cr) 137, supra at 176-78 (1803).

United States Magistrates are Article I judges and do not possess the judicial Power of the United States of Article III. In United States v. Raddatz 447 U.S., Federal Magistrates are identified as Non-Article III officers. In United States v. Roger C. Menner, case No. 3:98-CR75, United States District Court, Eastern District of Virginia, Richmond Division, the transcript of March 12, 1998 before the Honorable David G. Lowe, United States Magistrate at page 14 lines 13-14 stated:

13---THE COURT: "No, I'm not an

14---Article III judge, I'm an Article I judge" [see Exhibit-

D]

Petitioner is entitled to procedures and to present issues, which can only be determined by a judge of Article III vintage, sitting through the power of a Constitutional Court in full possession of the judicial Power of the United States and these procedures and issues are not within the power of an Article I judge to make a determination on these issues.

Jurisdiction exercised by the United States Magistrate through the Federal Magistrate's Act is not supervised by a United States District Court exercising the full judicial Power of the United States.

The Federal Magistrates sitting under Article I and assisting so-called Article III United States District Courts via the Federal Magistrates Act are not United States District Courts possessing the full judicial Power of Article III as stated in Palmore v. United States, and Williams v. United States:

"...The decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create inferior Art. III courts to hear and decide cases within the judicial power of the United States, including those criminal cases arising under the laws of the United States. Nor, if inferior federal courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Art. III. "[T]he judicial power of

the United states..." Palmore v. United States, 411 U.S. 389, (1973), p.401

[4] "That judicial power apart from that article may be conferred by Congress upon legislative courts, as well as upon constitutional courts,..." Williams v. United States, 53 S. Ct. Oct. term, (1933), 289 U.S. 553, [p.754]

Petitioner, was Indicted by a Grand Jury a Constitutional process within Article Five in Amendment of the Constitution for the United States of America. Article Five in Amendment is clearly within the jurisdiction of a Constitutional Court in possession of the judicial Power of the United States. The United States District Court possessing only "judicial power" is not a Court in possession of the judicial Power of the United States, and any proceedings before such United States District Court of diminished judicial power or "special powers" would bar Petitioner from the Appellate jurisdiction of the United States Supreme Court as stated in Gordon v. United States:

"...And Congress cannot extend the appellate power of this Court beyond the limits prescribed by the Constitution,...or any other tribunal exercising only special powers under an act of Congress;..." Gordon v. United States, 117 US 697, (1885).

Petitioner's challenge that the indictment is void would fall on death ears in a United States District Court in possession of only judicial powers. Petitioner seeks a United States

District Court established under the Organic Law [The People's Law] as originally set by the People as Recognized in Mattox v. U.S.:

"We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted." Mattox v. U.S., 156 U.S. 237, 243.

WHEREFORE, your Petitioner respectfully demands that this Honorable Court duly issue an Emergency Writ of Prohibition out of and under the aforesaid judicial Power of the United States, authority and jurisdiction of this Court and under the judicial seal of this Court, directed to Respondent(s) the Honorable Lonny R. Suko, United States Magistrate, and all other United States District Court Judges who sit in United States District Courts possessing only the "judicial power" from proceeding further in file number CR-98-2076-RHW falsely pending before Respondents and directing Respondents to show cause, if any there be, before the judge(s) of and in this Court, at a specific date and time, why Respondents should not be permanently prohibited from proceeding further in said file number CR-98-2076-RHW.

Subscribed this 25th day of June in the Year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and Ninety-

eight.

/s/ Edward B. Atkinson II
Edward B. Atkinson, II (Sealed)
Petitioner - Pro Per
Yakima County Judicial District
2701 S.42nd Avenue, RR # 7
Yakima, Washington State
No Bar Codes, No Zip Codes,
No Numerical Identifiers

APPENDIX G

FORM A.O. 199C

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year; if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a $250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment, and a $250,000 fine or both to

tamper with a witness, victim or informant; to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of;

(1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than $250,000 or imprisoned for not more than ten years, or both;

(2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than $250,000 or imprisoned for not more than five years, or both;

(3) any other felony, you shall be fined not more than $250,000 or imprisoned not more than two years, or both;

(4) a misdemeanor, you shall be fined not more than

$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgement of Defendant

I Acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

s/s By Special Appearance 2 waive no past rights!
/s/Edward B. Atkinson
Signature of Defendant

/s/Yakima County Judicial District
/s/2701 S. 42nd Ave RR #7
Address

/s/Yakima, Washington
City and State Telephone

s\sNo Zip Code, NO Bar Code
s\sNo Numerical Identifier
s\sSigned Based upon Court Record of June 30, A.D. 1998 @1125 AM.

/s/1-19-41
Birthrate

/s/NONE
Soc. Sec. No.

Directions to United States Marshal

(x) The defendant is ORDERED released after processing.

( ) The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: /s/6/30/98

/s/L R Suko
Signature of Judicial Officer

/s/US. Magistrate Judge
Name and Title Of Judicial Officer

APPENDIX H

[Filed: Jul 13 1998]

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CASE NO. CR-98-2076-RHW

UNITED STATES OF AMERICA,
Plaintiff(s),

vs.

EDWARD B. ATKINSON, II,
Accused.

By Special Appearance

AFFIDAVIT OF EDWARD B. ATKINSON, II
DENYING ENTRY OF PLEA
AND APPOINTMENT OF COUNSEL

I, Edward B. Atkinson, II, being put upon due and solemn affirmation hereby state:

1. On June 30, 1998, United States Magistrate Lonny R. Suko, entered upon file No. CR-98-2076-RHW a plea of "NOT GUILTY" without my power of attorney or consent, whatsoever, and without my knowledge to same, and without authority of law, which said "plea" and any power, waivers, authority or stipulations which might accompany

same is hereby specifically denied and disavowed; and,

2. On June, 30, 1998, United States Magistrate Lonny R. Suko, appointed Attorney Greg Scott, as stand-by counsel for the accused without my power of attorney or consent, whatsoever, and without authority of law, which said appointment and any right, power, or authority which might accompany same is hereby specifically denied; and,

3. I hereby specifically deny any and all power of attorney, agency or similar power to plaintiff, plaintiffs attorney or any affiliates whomsoever, and any, judge or agency, specifically, but not limited to, the United States District Court, Eastern District of Washington, United States Magistrate Lonny R. Suko, in case number CR-98-2076-RHW; and,

4. I hereby specifically deny any and all power of attorney, agency or similar power to any attorney or agency that is or may be appointed by the United States District Court, Eastern District of Washington, or any judge, or any other officer thereof, in case number CR-98-2076-RHW, specifically but not limited to Attorney Greg Scott this instance; and,

5. I hereby specifically disavow any an all acts of said

Attorney Greg Scott, purporting to be in my behalf or with my power of attorney, which said power is specifically denied herein and hereby; and,

6. Any further act of Attorney Greg Scott, or any member of his office, or any other person or attorney purporting to be in my behalf or in the exercise of my power of attorney in said case number CR-98-2076-RHW, without my specific written consent thereto, is a fraud and a misrepresentation and any person or attorney making such misrepresentations shall be held personally liable for such acts; and,

7. The forgoing is true and correct to the best of my knowledge, is made and executed by me in good faith, and not for the purpose of delay or any other unjustified purpose.

FURTHER AFFIANT SAITH NOT.

State of WASHINGTON)

Affirmed:

County of Yakima)

SUBSCRIBED AND AFFIRMED in the County of Yakima, in the State of Washington, this 9th day of July, in the year of our Lord and Savior, Jesus the Christ, Nineteen Hundred and ninety-eight.

/s/ Edward B. Atkinson II (Seal)

Edward B. Atkinson, II
Accused - Pro Per
Yakima County Judicial District
2701 South 42nd Avenue RR #7
Yakima, Washington
(No Bar Codes, No Zip Codes,
No Numerical Identifiers)

We, the undersigned, witness this day that one known to us to be the above signatory did personally appear before us in County of Yakima, in the State of Washington, and upon due affirmation execute and affix the above signature and seal hereto.

/s/Jeff Paxton, a Citizen in the State of Washington.
Print Name & Address: JEFF PAXTON
6821 W. KING ST. YAKIMA, WA.

/s/Anthony W. Duffy, a Citizen in the State of Washington.
Print Name & Address: ANTHONY W. DUFFY
1712 PARSONS LP., YAKIMA, WA.

/s/Lorne J. House, a Citizen in the State of Washington.
Print Name & Address: Lorne J. House
2712 So. 16th Ave Yakima, Washington.

APPENDIX I

[Filed: July 20 1998]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No. CR-98-2076-RHW
	)	
v.	)	
	)	NOTICE SETTING
EDWARD B. ATKINSON, II,	)	PRETRIAL
	)	HEARING AND
Defendants.	)	TRIAL DATES
	)	

PRETRIAL HEARING: AUGUST 19, 1998 at 11:00 a.m.

DRAWING OF JUROR NAMES FROM WHEEL: AUGUST 27,1998

TRIAL DATE: AUGUST 31, 1998 8:30 A.M.-COUNSEL MEET IN CHAMBERS

9:00 A.M.- JURY SELECTION/TRIAL

TAKE NOTICE that the pretrial conference and trial have

been scheduled as indicated above in the U.S. Courthouse in Yakima, Washington, before the Hon. Robert H. Whaley. *A detailed explanation of the jury selection process is on page 2 of this Notice.

Counsel are requested to advise the undersigned by telephone, as soon as possible prior to the date set for the

pretrial conference, regarding any change in status of this matter.

In accordance with LR 7(h)(1), all motions are to be noted for hearing. Unless other arrangements are made,counsel should note their pretrial motions for the date and time of the pretrial conference.

Counsel for the defense should notify the Defendant and ensure his attendance.

DATED: July 14, 1998

JAMES R. LARSEN, Clerk

District Court Executive

/s/_____

MICHELLE M. FOX (509) 353-2170

Deputy Clerk

counsel: D. Kresse

G. Scott

E. Atkinson

cc: U.S. Marshal

APPENDIX J

[Filed: Jul 30 1998]

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NO. CR-98-2076-RHW

UNITED STATES OF AMERICA,
Plaintiff,

v.

EDWARD B. ATKINSON, II,
Defendant.

ADVISORY TO PRO SE DEFENDANT

Defendant has requested to proceed in this matter without the assistance of counsel. In accordance with this request, Defendant has not been assigned full legal counsel, although an attorney has been appointed to act as a legal expert of service to the Court. *See* Ct. Rec. 10. A pretrial hearing is scheduled in this matter on August 19, 1998 at 11:00 a.m in Yakima, Washington. At the pretrial conference, in addition to discussion of any motions that may be filed pursuant to the magistrate judge's June 30, 1998 order (Ct. Rec. 8), the parties shall also be prepared to discuss the issue of whether Defendant's waiver of his right to representation by counsel

is knowing and intelligent pursuant to the requirements of *Faretta v. California*, 422 U.S. 806 (1975).

In *Faretta*, the Supreme Court made clear that the Sixth Amendment to the United States Constitution protects an individual's right to self-representation. 422 U.S. at 818. However, the same amendment also assures criminal defendants the right to representation by an attorney. *ID*. at 807. By exercising his right to self-representation, a criminal defendant necessarily relinquishes the benefit of the right to counsel. Accordingly, in order for a court to approve of a defendant's waiver of the right to the assistance of counsel, it must be determined that the defendant's decision is knowing and intelligent. *ID*. at 835.

The Ninth Circuit has developed three requirements for finding that a defendant's waiver of the right to counsel is knowing and intelligent: the defendant "must be aware of the nature of the charges against him, the possible penalties, and the dangers and disadvantages of self-representation." *United States v. Balough*, 820 F.2d 1487, (9th Cir. 1987). In order to assure that these three requirements are met in the case at hand, Defendant is provided the following advisory, which will be expanded upon and discussed at the

pretrial conference.

The Indictment in this case charges Defendant with three counts of serving or attempting to serve in the capacity of an airman without proper certificate, in violation of Title 49 United States Code ("USC") Section 46306 (b)(7) and Title 14 Code of Federal Regulations ("CFR") Section 61.3. 42 U.S.C. § 46306 (b)(7) provides that it is a felony offense for any person to "knowingly and willfully serve [] or attempt [] to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity." 14 C.F.R. § 61.3 sets forth the requirements for obtaining an airman's certificate.

The maximum penalties Defendant faces under the Indictment are 3 years incarceration, a $250,000 fine, 1 year supervised released, and a $100 special penalty assessment for each count.

Before the Court can approve of Defendant's waiver of his right to legal counsel, the Court must be assured that Defendant is aware of a licensed attorney's "superior ability to perform the tasks associated with trial." *United States v. Arlt*, 41 F.3d 516, 520 (9th Cir. 1994) (citations omitted). As several panels in this circuit noted, even highly educated

individuals such as physicians and professors may not have competent understandings of the law or legal procedures. *See, e.g., United States v. Harris*, 683 F.2d 322, 325 (9th Cir. 1982); *United States v. Bird*, 621 F.2d 989 (1980). Representation during a criminal proceeding requires familiarity with the Court's local rules and the Federal Rules of Criminal Procedure; the ability question jurors for prejudice; familiarity with the Federal Rules of Evidence and the ability to introduce and object to evidence;the ability to examine witnesses; the ability to preserve legal errors for appellate review; and the resources to prepare jury instructions. After three-years of post-graduate legal education and studying for a license from the state bar, an attorney is in a much better position than a lay person to handle the complex tasks involved in trial work. Attorneys also have advantages such as trained investigators, research materials, and practical experience. Defendants has a right to avail himself of these resources and expertise. By waiving his right to counsel, Defendant will be expected to abide by the same rules and procedures as a trained attorney.

As was explained above, Defendant shall be prepared to discuss his waiver of the right to counsel at the August 19,

1998 pretrial conference. If Defendant decides to change his mind and re-assert his right to counsel, he shall contact the Court as soon as possible.

IT IS SO ORDERED. The District Court Executive is directed to enter this order and to provide copies to Defendant and counsel. In forwarding a copy to Defendant, the District Court Executive is directed to attempt to comply with Defendant's mailing requests.

DATED this /s/30 day of July, 1998.

/s/R H Whaley
ROBERT H. WHEALY
United States District Judge

APPENDIX K

TRANSCRIPT OF JUNE 30, 1998 BEFORE THE HONORABLE LONNY SUKO UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON

PAGE 31, Lines 15 through 22.

15. **THE COURT:** .... You
16. have no Social Security number?
17. **THE DEFENDANT:** No, Judge, I do not have a Social
18. Security number.
19. **THE COURT:** All right.
20. **THE DEFENDANT:** And never had one.
21. **THE COURT:** I just simply asked for the record so it
22. is clear.

APPENDIX L

First Article in Amendment

to the Constitution for the United States of America

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

APPENDIX M

Fifth Article in Amendment
to the Constitution for the United States of America.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

APPENDIX N

Sixth Article in Amendment

to the Constitution for the United States of America

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation: to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defense."

APPENDIX O

Article I, Section 8, Clause 9

"....To constitute Tribunals inferior to the supreme Court;"

APPENDIX P

Article III, Section 1

"The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance of Office."

Article III, Section 2, Clause 1

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all Cases of admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - between a State and Citizens of another State; - between Citizens of different States, - between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citi-

zens thereof, and foreign States, Citizens or Subjects."

Article III, Section 2, Clause 2

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

APPENDIX Q

Fourteenth Amendment, Section 1

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

APPENDIX R

Fifteenth Amendment

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The Congress shall have power to enforce this article by appropriate legislation."

APPENDIX S

Nineteenth Amendment

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

APPENDIX T

14 C.F.R., Part 61.3 (2)(c)

(2)(c) *Medical certificate.* (1) Except as provided in paragraph (c)(2) of this section, a person may not act as pilot in command or in any other capacity as a required pilot flight crewmember of an aircraft, under a certificate issued to that person under this part, unless that person has a current and appropriate medical certificate that has been issued under part 67 of this chapter, or other documentation acceptable to the Administrator, which is in that person's physical possession or readily accessible in the aircraft.

APPENDIX U

28 U.S.C. § 128

Organization of Courts

§ 128. Washington

Washington is divided into two judicial districts to be known as the Eastern and Western Districts of Washington.

APPENDIX V

49 U.S.C. § 46306 (b)(7)

(b) **General criminal penalty.**--Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person--

(7) knowingly and willfully serves or attempt to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

APPENDIX W

Judiciary Act of June 25 1948

62 Stat., 80th CONG., 2d SESS.

CH 646, § 1651 (a)(b)

(a) The Supreme Court and all courts established by Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

APPENDIX X

Social Security Act of 1935

74th Congress, Sess.I, Ch. 531, August 14, 1935

49 STAT. 620, 647; Title XI -- General Provisions

Definitions: § 1101 (a)(3)

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

APPENDIX Y

Supmere Court Rule 13.1

..... is timely when it is filed with the Clerk of this Court within 90 days after entry of judgment.